

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

HARRY R. SMITH,	:	Case No. 1:14-cv-677
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Stephanie K. Bowman
v.	:	
	:	
WARDEN, CHILLICOTHE	:	
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY:**

- (1) OVERRULING PETITIONER’S OBJECTION (DOC. 40) TO THE JULY 22, 2015 ORDER OF THE UNITED STATES MAGISTRATE JUDGE (DOC. 35);**  
**(2) ADOPTING THE JULY 22, 2015 REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (DOC. 34);**  
**(3) GRANTING RESPONDENT’S MOTION TO DISMISS (DOC. 18) AND DISMISSING WITH PREJUDICE PETITIONER’S PETITION UNDER 28 U.S.C. § 2254 FOR A WRIT OF HABEAS CORPUS (DOC. 3); AND**  
**(4) TERMINATING THIS CASE FROM THE DOCKET**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio, Western Division, to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on July 22, 2015, issued an Order (Doc. 35) in which she: (a) granted Petitioner’s “Motion Seeking Leave To File A Supplement To Ground 14 in Writ For Habeas Corpus” (Doc. 7) and Petitioner’s motions (Docs. 22, 25, 27, 32) requesting that the record be expanded to include the exhibits attached to those motions; (b) denied Petitioner’s “Motion Seeking

Leave to Expand The Record” (Doc. 8), “Motion Seeking Leave To Supplement Petitioners Reply to Respondents Response To Petitioners Motions For Discovery, Expansion Of The Record & Supplement Ground Fourteen” (Doc. 13) and “Motion For Reconsideration” (Doc. 29); and (c) denied in part and granted in part Petitioner’s “Motion To Compel” (Doc. 20). Also pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on July 22, 2015, submitted a Report and Recommendation (Doc. 34) regarding “Respondent’s Motion to Dismiss” (Doc. 18). Petitioner sought (Doc. 37) and was granted (by Notation Order) an extension of time to prepare his objections to both the July 22, 2015 Order and the July 22, 2015 Report and Recommendation. These lengthy and rambling pleadings were filed on September 4, 2015 (Doc. 40) and August 25, 2015 (Doc. 38), respectively.

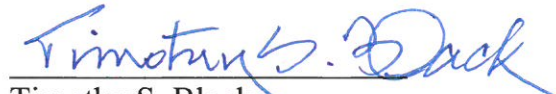
As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and all of the filings regarding the non-dispositive motions filed by Petitioner, and does determine that nothing contained within the July 22, 2015 Order is clearly erroneous or contrary to law. Furthermore, as required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter regarding the dispositive motion filed by Respondent, and does determine that the July 22, 2015 Report and Recommendation should be and is hereby adopted in its entirety.

Accordingly:

1. Petitioner's Objection (Doc. 40) to the July 22, 2015 Order (Doc. 35) is **OVERRULED**;
2. The July 22, 2015 Report and Recommendation (Doc. 34) is **ADOPTED**;
3. Respondent's Motion to Dismiss (Doc. 18) is **GRANTED** and Petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 3) is **DISMISSED WITH PREJUDICE**.
4. The Court **DECLINES** to issue a certificate of appealability. With respect to Petitioner's time-barred claims, no jurists of reason would find it debatable whether the Court is correct in its procedural ruling that the statute of limitations requires dismissal. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). As to any claims alleged in Ground Fourteen, the Court concludes that Petitioner has not made a substantial showing of the denial of a constitutional right; there has been no demonstration that jurists of reason would debate that the issues could be resolved differently or are adequate to deserve encouragement to proceed further. *See id.* at 483-84 (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
5. The Court **CERTIFIES** that any appeal of this Decision and Entry would not be taken in good faith for the reasons stated in the Report and Recommendation. Therefore, any application by Plaintiff to proceed *in forma pauperis* on appeal pursuant to 28 U.S.C. § 1915(a)(3) is **DENIED**.
6. This case is **TERMINATED** on the docket of the Court.

**IT IS SO ORDERED.**

Date: 9/29/15

  
Timothy S. Black  
United States District Judge